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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,864	05/15/2007	Hans-Georg Frank	P71215US0	6812
136 7590 02/10/2009 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER WOODWARD, CHERIE MICHELLE				
ART UNIT 1647		PAPER NUMBER		
MAIL DATE 02/10/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10575864	5/15/2007	FRANK ET AL.	P71215US0

## EXAMINER

CHERIE M. WOODWARD

ART UNIT	PAPER
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1647

20090205

DATE MAILED:

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## Commissioner for Patents

The reply filed on 9/8/2008 is not fully responsive to the Requirement for Restriction/Election mailed 4/21/2008 because of the following omission(s) or matters(s): Applicant has not fully responded to the species elections set forth on page 3 of the Requirement for Restriction/Election mailed 4/21/2008 (see 37 CFR 1.111(b)). Applicant called the examiner on 6 October 2008 to notify her that a signed copy and a "formula" election had in fact been made in the Response filed 9/8/2008. Based on the statements of Applicant's representative during that conversation the examiner was led to believe that Applicant had fully complied with the species elections and that the duplicate paperwork submission was an oversight by the examiner (see Interview Summary, mailed 11/7/2008). The examiner's statement in the interview summary that a first action on the merits would be forth coming was stated prior to the examiner's realization (and the silence of Applicant's representative) that Applicant had not responded to all of the required species elections. Upon further review of the case, the examiner finds that Applicant did not in fact elect a species of structures from structures a, b, c, d, e, and f (claim 11), g (claim 16), or h and i (claim 21). Likewise, Applicant did not elect a species of cytokine from among IL-2R (claim 13), IL-2 (claim 15), IL-4R (claim 18), IL-4 (claim 20), EPOR (claim 23), and EPO (claim 25). Applicant's attention is directed to pages 3 and 4 of the Requirement for Restriction/Election mailed 4/21/2008. Accordingly, until Applicant's representative complies with the REQUIRED RESPONSE to elect ALL species from those set forth in the Restriction Requirement, mailed 4/21/2008, no examination can be conducted. Applicant's representative is also reminded of his duties under 37 CFR 1.56.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cherie M. Woodward whose telephone number is (571) 272-3329. The examiner can normally be reached on Monday - Friday 9:30am-6:00pm (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on (571) 272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

